

**MEDICAL CONTESTED CASE HEARING NO 25006**

**Decision**

For the reasons discussed, the administrative law judge determines that:

The claimant is not entitled to work hardening program x 80 hours for the compensable injury of (Date of Injury).

**Statement of the Case**

Judge Lindsay A. Wallace held a hearing on May 6, 2025, to decide the following:

For the compensable injury of (Date of Injury), is the claimant entitled to work hardening program x 80 hours?

**Persons Present**

The claimant appeared and was assisted by DC, ombudsman. The insurance carrier appeared and was represented by PM, attorney. JW, the claims adjuster, was an observer.

**Evidence Presented**

The following witnesses testified:

For the claimant: The claimant

For the insurance carrier: None

The judge admitted the following exhibits into evidence:

Judge's Exhibits: ALJ-1 and ALJ-2

Claimant's Exhibits: C-1 through C-5

Insurance Carrier's Exhibits: CR-A through CR-J

The claimant affirmed there were 36 pages of Claimant's Exhibits. The insurance carrier affirmed there were 94 pages of Insurance Carrier's Exhibits.

## Discussion

The claimant testified that at the time of her injury she worked for the employer in the investigative division as a senior corporal doing photo line-ups for all of the investigative divisions in the department, which involved her doing field work. The claimant testified that on (Date of Injury), she got into a physical altercation with a suspect, and she fell with her whole weight going onto the right hand and fell onto her left knee. The parties stipulated that the claimant sustained a compensable injury, which extends to and includes at least a right wrist sprain, right wrist triangular fibrocartilage complex tear, and left knee sprain.

The claimant testified that she underwent a lengthy amount of therapy for almost a year to try to avoid surgery for her right wrist, before deciding surgery was necessary. She explained that after surgery, she exhausted the amount of physical therapy approved, then completed work conditioning. The claimant testified that when the functional capacity evaluation was performed for the work conditioning program, it was recommended that she undergo a work hardening program because they believed she needed something more intense. The claimant testified she underwent a work hardening program and that she noticed a lot of improvement with that program in getting the strength back in her wrist and overall improvement including losing weight. The claimant testified that when she reached a plateau, which she stated is a normal part of the process with a workout regiment, the insurance carrier would not approve more work hardening. She further testified that she believed she needed the additional work hardening program hours to be at full duty and effective in the field. She expressed concern that, while she was recently promoted to a supervisory administrative position, she could be transferred back to patrol any day without notice.

To determine if treatment is medically necessary, Texas law requires the Division to use treatment guidelines. These guidelines must be evidence-based, scientifically valid, and outcome-focused. Use of these guidelines ensures that an injured employee will receive reasonable and necessary health care. The Division uses the current edition of the *Official Disability Guidelines*. If the *Official Disability Guidelines* does not address the requested treatment, then other guidelines or generally accepted standards of practice recognized in the medical community are used.

The Independent Review Organization reviewer detailed the *Official Disability Guidelines* criteria for a work hardening program. The Independent Review Organization reviewer determined the requested work hardening was not medically necessary, explaining that treatment is not supported for continuation beyond one to two weeks without demonstration of significant gains, documenting both subjective and objective functional improvement. The reviewer stated that there was no evidence of significant gains and objective functional improvement, noting the claimant started the program at a medium physical demand level and ended the program at the same level, with the only area of improvement documented as a five-pound improvement in the floor to waist lift. The reviewer further noted the functional capacity evaluation results suggested the claimant gave a self-limited effort.

The claimant relied on her testimony and the medical reports of Dr. JK, the doctor who recommended the additional work hardening hours. Dr. K noted in his July 23, 2024, record that the claimant was regressing "after work hardening approved by the insurance carrier but only half of the necessary visits." (C-3, page 5.) On November 26, 2024, Dr. K noted that the claimant was making progress with work hardening, but she had plateaued in her progress as a result of the discontinuation of her work hardening. He stated that the claimant could not progress to regular work activities unless afforded the entire recommended block of work hardening. He stated, "It is not my practice to prescribe work hardening but in this patient's case it has been valuable in conditioning her for potential return to regular work activities, until the point this was abruptly stopped. Without the necessary work hardening, it is unlikely she will return to her regular job activities as a police officer." (C-3, page 2.)

The claimant's testimony was credible and sincere, and Dr. K's reports were carefully considered. However, the preponderance of the evidence was not contrary to the decision of the Independent Review Organization that the claimant is not entitled to work hardening program x 80 hours.

The judge considered all the evidence admitted and based her findings of fact and conclusions of law on the evidence, even if the judge did not specifically discuss all the evidence.

## **Findings of Fact**

1. The parties stipulated to the following facts:
  - A. The (City) field office is the proper location for the hearing.
  - B. On (Date of Injury), the claimant was an employee of (Employer), which provided workers' compensation insurance through self-insurance.
  - C. On (Date of Injury), the claimant sustained a compensable injury, which extends to and includes at least a right wrist sprain, right wrist triangular fibrocartilage complex tear, and left knee sprain.
  - D. The Independent Review Organization determined that the required treatment of work hardening x 80 hours was not medically necessary treatment.
  - F. The claimant timely appealed the decision of the Independent Review Organization.
2. The insurance carrier delivered to the claimant a document stating the true corporate name of the insurance carrier, the name of the insurance carrier's registered agent, and the registered agent's street address, which was admitted into evidence.
3. Work hardening program x 80 hours is not health care reasonably required for the compensable injury of (Date of Injury).
4. The preponderance of the evidence is not contrary to the decision of the Independent Review Organization that the claimant is not entitled to work hardening program x 80 hours.

## **Conclusions of Law**

1. The Texas Department of Insurance, Division of Workers' Compensation has jurisdiction to hear this case.
2. Venue is proper in the (City) field office.

3. The claimant is not entitled to work hardening program x 80 hours for the compensable injury of (Date of Injury).

**Order**

The insurance carrier is not liable for the benefits at issue in this hearing. The claimant remains entitled to medical benefits for the compensable injury in accordance with Texas Labor Code Section 408.021.

The true corporate name of the insurance carrier is **(SELF-INSURED)**, and the name and address of its registered agent for service of process is:

**(NAME)**  
**(ADDRESS)**  
**(CITY, STATE, ZIPCODE)**

Signed on May 13, 2025.

Lindsay A. Wallace  
Administrative Law Judge